IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE V.ESWARAIAH**

**WRIT PETITION NO : 12982 of 2003**

Between:

M.Bhaskar Reddy s/o.Narsa Reddy, Secretary, P.A.C.S,
Pulicherla, Pullicherla Mandal, Chittoor Dist.

**..... PETITIONER**

AND

1 The Primary Agricultural.Co-operative Society Ltd., rep.by its PIC/Chairman Pulicheria Pulicherla Mandal, Chittoor Dist.
2 The Primary Agrl.Coop.Scoty.Ltd., Erracheruvupalli,Poothalapattu(M)Chittor District, represented by its PIC/Chairman.
3 The Primary Agricultural Cooperative Society Ltd, Chinnagottigallu(M),Chittoor District, represented by its PIC/Chairman.
4 The Divisional Co-operative Officer, Chittor, Chittoor Dist.
5 The District Cooperative officer, Chittor, Chittoor District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus---- (i) declaring the action of the 2nd respondent in surrendering the petitioner to the 3rd respondent society and the inaction of the 3rd respondent in not accepting the petitioner inspite of specific direction from the 5th respondent vide Rc.No.4098/2000-c, dated 27-12-2002 as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and against the very spirit and object of section 116/AA of the A.P.Cooperative societies act and Rulel 72 of the Rules framed thereunder; and further (ii) declaring the proceedings issued by the 4th respondent vide Rc.NO.74/2003-C directing the 1st respondent society to relieve the petitioner from the 1st respondent society and the consequential orders passed by the 1st respondent withdrawing the petitioner through proceedings dated 21-6-2003

as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and against Article 21 of the constitution of India and consequently set aside the said two proceedings; consequently (iii) direct the 3rd respondent society to take back the petitioner into duty from the date when he was surrendered by the 2nd respondent society to the 3rd respondent society through proceedings dated--Nil but served on the petitioner on 12-12-2002 by giving all service benefits and pay and allowances.

**Counsel for the Petitioner:MR.NANDIGAM KRISHANA RAO**

**Counsel for respondent Nos. 1,2,3 & 5: G.P.for Co-operation & Agriculture.**

**Counsel for the Respondent No.4: MR.MANJUNATH ALLUR**

**The Court made the following :**

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**O R D E R:**

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The petitioner questions the action of the 2nd respondent in surrendering him to the 3rd respondent and the action of the 3rd respondent in not accepting the petitioner as his employee, inspite of the directions from the Divisional Co-operative Officer, Tirupathi, dated 27.02.2003 as illegal, arbitrary and contrary to Rule 72 of the Andhra Pradesh Co-operative Societies Rules (herein after called as 'Act'). The petitioner further questions the action of the 4th respondent in directing the 1st respondent society to relieve the petitioner from the 1st respondent Society vide proceedings, dated 23.06.2003 and to declare the same as illegal.

It is the case of the petitioner that in the year 1979, the petitioner was initially appointed by the 3rd respondent-Primary Agricultural Co-operative Society Limited, Erracdheruvupalli, Chittor District as paid Secretary in the common cadre employee. There after, in view of the amendment brought to the Act in the year 1985, by virtue of Section 116-AA of the Act, the services of the petitioner were decaderised and for all practical purposes, he was treated as Secretary of the 3rd respondent Society. As the matter stood thus, in December 2001, on a mutual understanding between the 2nd and the 3rd respondent, the petitioner was deputed to the 2nd respondent Society and since then he has been continuously working in the 2nd respondent Society. On 12.12.2002, the petitioner received orders from the 2nd respondent Society, wherein it is stated that the petitioner was repatriated and surrendered to the 3rd respondent Society and for the reasons best known to the 2nd respondent Society, the petitioner was dis-allowed to continue to work in the 2nd respondent Society. After receiving

the said order of the 2nd respondent, the petitioner approached the 3rd respondent Society for his continuance in the 3rd respondent Society. As the 3rd respondent did not take any action, the petitioner approached the 5th respondent-District Co-operative Officer, Chittor District. In turn, the 5th respondent vide proceedings in Rc.No.4098/2000-C, dated 27.12.2002 directed respondent Nos. 2 and 3 to act in accordance with the agreement and take back the petitioner into service. But neither the 2nd respondent nor the 3rd respondent took the petitioner back into service, on the ground that the 1st respondent was in need of the Secretary. On a request made by the petitioner, the 1st respondent-Primary Agricultural Co-operative Society Limited, Pulicherla, Chittor District vide proceedings, dated 18.12.2002 passed orders giving appointment to the petitioner and on 30.12.2002 issued appointment order. After receiving the same, the petitioner joined the services of the 1st respondent Society on 01.01.2003 and worked there upto 21.06.2003. Thereafter, basing on the telegram issued by the 4th respondent-Divisional Cooperative Officer, Tirupati, Chittor District to the 1st respondent Society to relieve the petitioner from the service, the 1st respondent vide orders, dated 21.06.2003 directed the petitioner to relieve from the 1st respondent Society from 30.06.2003. Hence, the present writ petition is filed.

Respondent Nos. 4 and 5 filed counter stating that the petitioner was originally appointed by the 3rd respondent Society in the year 1983. On an obligation that the petitioner is a Common Cadre employee, he was transferred to Kollapalle Bapuji Primary Agricultural Cooperative Society in Chittor Revenue Division vide proceedings in Rc.No.2629/89-C, dated10.04.1990 of the District Collector, Chittor, but the petitioner did not join there and continued in the 3rd respondent Society. Since three Secretaries are working in the 3rd respondent Society and that as there was no Secretary working in the 2nd respondent Society, on mutually agreed terms

and conditions between the 2nd respondent and 3rd respondent Societies, the Management of the 3rd respondent Society deputed the petitioner to the 2nd respondent Society at the willingness of the 2nd respondent Society. Later, for the reasons not known, the 2nd respondent Society repatriated the petitioner to the 3rd respondent Society. As there is heavy work in the 1st respondent Society, it took the services of the petitioner as Assistant Secretary. There after, in order to resolve the services of the petitioner as Assistant Secretary, the 1st respondent Society conducted a meeting of the Board of Directors, for which, out of 13 members, only two person-in-Charge Committee members have attended the meeting and signed the resolution. As there was no quorum, the resolution was not approved and therefore, the Person-in-charge/Chairman did not admit the petitioner as Assistant Secretary in the Society.

This Court by an interim order, dated 03.07.2003 in W.P.M.P.No.16121 of 2003 directed the 1st respondent Society to continue the petitioner in the service. There after, vide orders, dated 05.01.2004 in W.V.M.P.No.3232 of 2003, this Court vacated the said interim orders, dated 03.07.2003. In view of the said orders, dated 05.01.2004, the petitioner is not working in any of the Society.

The only question that arises for consideration is as to which Society the petitioner is to be allotted.

No doubt, the petitioner was appointed by the 3rd respondent Society and was recognized as an employee of the Society. But the 3rd respondent Society on mutual agreement with the 2nd respondent Society, allotted his services to the 2nd respondent Society. As the 2nd respondent agreed to take the services of the petitioner on deputation only, but not on permanent basis, it cannot be said that there

is an agreement in between the 2nd and 3rd respondent Societies. Hence, I am of the view that the petitioner is deemed to be an employee of the 3rd respondent Society. Therefore, the 3rd respondent Society cannot refuse to take the services of the petitioner.

The writ petition is accordingly allowed, directing the 3rd respondent to treat the petitioner as its employee. No costs.

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V.ESWARAIAH.J

04.11.2004

That Rule Nisi has been made absolute as above.

Witness the Honourable Sri Devinder Gupta,
the Chief Justice on this Thursday, the 4th day of
November, Two Thousand and Four.

ASSISTANT REGISTRAR

To

1 PIC/Chairman, Primary Agricultural.Co-operative Society Ltd,
Pulicheria Pulicherla Mandal, Chittoor Dist.
2 PIC/Chairman, Primary Agrl.Coop.Scoty.Ltd.,

Erracheruvupalli,Poothalapattu(M)Chittor District.
3 PIC/Chairman, Primary Agricultural Cooperative Society Ltd, Chinnagottigallu(M),Chittoor District.
4 The Divisional Co-operative Officer, Chittor,Chittoor District.
5 The District Cooperative officer, Chittoor,Chittoor District.

6. 2CCs to the G.P.for Co-operation.

7. 2CD copies.